

THE
J U S T I C E
O F T H E

Present Establish'd Law,

Which gives the SUCCESSOR in any
Ecclesiastical Benefice or Promotion,

All the Profits from the Day of Avoidance,
J U S T I F I E D ;

And a Proposal that hath been offered for making an Alteration in it, in favour of the PREDECESSOR fully Examined, and shown to be contrary to Charity, Justice, the Good of the Church, and Interest even of those Ministers themselves, for whose sake this Alteration is pretended to be endeavoured. The Practice of Patrons in taking upon them to dispose of the Fruits of their Vacant Churches to the Widows or Children of deceased Ministers, shown to be Simoniacal, Sacrilegious, and Oppressive. And a new Proposal offered, how best to provide for the Poor Widows and Children of Clergymen deceased.

L O N D O N :

Printed for Robert Clavel at the Peacock in St. Paul's Church-Yard, MDCCIII.

S I R,

I Have received yours, wherein you desire, that I would concur with you in setting my Hand to a Petition, in order to procure a Bill to pass in Parliament, for the altering of the Law, which makes the Avoidance of an Ecclesiastical Benefice, or Promotion, to be the Term, where the Right of the Predecessor ends, and that of the Successor begins. And you tell me the reason, why you and several others desire to have this effected, is to do Right to the Predecessor ; because often Ministers dying before Harvest, they lose the whole Profits of the year, and the Successors go away with them, who perchance may be but just come into the Benefice, and therefore cannot lay so Equitable a Claim to them, as he that hath served the Cure the whole year before. And your grand Argument for it is, That often the Predecessor leaves a Wife and Children in Poverty behind him ; for whose Comfort and Support, Charity, as well as Justice, pleads, that he should have some share of the ensuing Harvest, in proportion to that part of the year, in which he served the Cure.

But however fond you are of this Project, I must desire to be excused from going with you into it. The plausible pretence of Charity on the one hand, is not sufficient with me to over-balance the mischiefs which will follow on the other, both in the Injustice to the Successor, and the damage to the Church of God, which will be done thereby, should the thing take effect, as you propose.

But to clear to you the whole State of this matter, I will shew you, 1. What was the antient Usage in this case, in this Land. 2. How the Law at present is, and how it

(a) Extra De Peculio Clericorum Cinvestigandum est, & C unufquique. De Testamentis C quorundam, C cum in Officiis, C quia nos, & C Relatum est 2. De successione ab Intestato C sed hoc ibidem.

came to be so established; And then, 3. Stating the Alteration, which you would have made herein, I will lay before you the Reasons, which I have against it.

And first, By the Canon Law the Rule was, that on the Death of the Incumbent not (a) only all the Profits afterwards accruing or any way arising out of the Benefice should go to the Successor, but also that whatsoever else he left at his Death, which was gotten before out of any Church Revenue invested in him, was again to return to the Church, out of which he got it. And the Executors could claim nothing of that, which was left by the deceased, but what could be proved to have been his own private Inheritance, or the Gift of Friends, or to have been saved or gotten out of that, which was by one of these two ways his own proper Estate.

(b) *Lindwood, De Consuetudine C nullus Rector.* But before the Canon Law, came into *England*, or had obtained any force here (which was not till about an Hundred Years after the Conquest) it was settled as an established Usage and Custom in this Church, and it was afterwards confirmed by a Provincial Constitution (b) by

(d) *Vide Constitutionem Walteri de Cantilupo Episcopi Wigorniensis apud eundem, Tom. 2. p. 255.* *Edmund of Abington, Archbishop of Canterbury, Anno Do. 1236*, that a Minister might not only dispose of whatsoever he had at his Death, though gotten out of the Church, but also (c) that, in case he live till *Lady-day*, he might then by his Will give away to whom he should think fit,

(e) *Vide Constitutionem Gulielmi Bate-man Episcopi Norwicensis apud eundem, Tom. 2. p. 301, & 302.* all the Profits of his Benefice, which should accrue from it till the *Michaelmas* following. But (d) if he made no Will, or else did not in his Will, (e) in especial Words, name and bequeath the said Profits, they then went to the Successor.

But in case they were so expressly named, and bequeathed in the said Will, yet (f) out of them Deductions and

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Cantilupo Episcopi Wigorniensis apud eundem Tom. 2. p. 255. & Constitutionem Petri Quivil Episcopi Exoniensis apud eundem *Spelmammum*, Tom. 2. p. 389. & Constitutionem Episcopi Wintoniensis apud eundem, p. 452.

Allowances were to be made for the serving of the Cure, the Payment of all Pensions, Procurations, and Synodals, and the Discharge of all other Burdens of the Church till the *Lady-day* following. And often the Ministers themselves, when they disposed of those Tithes in their Wills, did add a particular Clause in them to oblige their Executors exactly to comply with what was by the Constitution of the Church in this case provided, in allowing out of those Tithes for the serving of the Cure till the *Lady-day* following, as may (g) be seen in many such Wills of Clergy men now remaining in the Principal Registry of this Diocese, down as far as the times of the Reformation. And altho' some particular Dioceffes had some peculiar Customs concerning this matter wherein they did a little vary one from another, yet most generally the usage was,

1. That (b) all Obventions, Mortuaries, and other Dues, which did properly belong to the Altar, and all the Profits of the Glebes, excepting such as had been sown by the Predecessor before his Death, should go to the Successor for the bearing and discharging of the Burdens of the Church, and could not be disposed of from him by the Will of the Predecessor. And if these were not sufficient for this purpose, then (i) further Allowances were to be made out of the Profits bequeathed by the said Will to supply, what was deficient, till the *Lady-day* following.

2. In case the Predecessor lived till after Harvest, and was in actual possession of all the Profits accruing from it at the time of his Death, yet (k) if the other Profits accruing afterwards from the Benefice, were not sufficient for all the Purposes aforesaid, till the *Lady-day* following, the Deficiency was to be supplied out of the Goods of the Deceased, and therefore,

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(i) *Lindwood*, ibid. *Constitutio Walteri de Cantilupo* supra citata.

(k) *Lindwood*, ibid. *Constitutio Walteri de Cantilupo*, ibidem.

(g) *Registrum Grundisburgh* f. 92. f. 95. & f. 137. & *Registrum Alpe* f. 116.

(b) *Vide Constitutionem Gulielmi Bareman Episcopi Norwicensis in loco supra citato*, p. 302. & *Constitutionem Petri Quivil Episcopi Exoniensis apud eundem Spelm. munum*, Tom. 2. p. 389, & 390. & *Constitutionem Episcopi Wintoniensis apud eundem* Tom. 2. p. 452. & *Lindwood de Consuetudine C nullus Restor ad verb. de consuetudine*.

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3. It appears from hence that according to the ancient Usage of this Church, 1. The Profits of a Benefice whenever

(l) Statuimus de quolibet, qui fructus percepit Annuales, quandoque ante Mediam Quadragesimam decedat, usque ad illud tempus ad omnia onera teneatur. Petrus Quivil in loco supracitato. (m) Statuimus quocunque tempore anni quis decedat, fructus Terrarum, quas seminavit superstes, sibi cadant, & in suos usus integre convertantur, hoc excepto, ut si decedat ante Terminum supradictum (i. e. ante mediam Quadragesimam) sumptus, quos defunctus impendit in terris excolendis & seminandis, ipsius Executoribus allocentur. Petrus Quivil Episcopus Exoniensis in loco supra citato. (n) Successor tamen defuncti, si ante tempus Messium fuerit institutus, tam fructus Terræ, quam Decimarum integre percipiat. Walterus de Cantilupo in loco supra citato. (o) See the Preamble to the Act, 28 H. 8. c. 11. (oo) Consuetudo providens in casu mortis non extenditur ad alios casus. Lindwood ibid. ad verb. decederint.

received (l) were to go to the bearing of all the Burdens, and discharging all the Duties of it for the whole Year antecedent to all other Uses and Considerations whatsoever; and, 2dly, That this Year was computed (m) from Lady-day to Lady-day, and not from Michaelmas to Michaelmas, and therefore, if the Minister dyed before Lady-day, not any thing of the ensuing Profits went to the Executor, but all to the Successor, as well Tithes as Glebes, without any Deduction or Allowances whatsoever, to the Benefit of the deceased; excepting only that, if any of the Glebes were sown, the Charges, he had been at in the Tilling, Manuring, and Sowing of the same, were to be again refunded to him. But this must be understood only in Case the Successor were (n) immediately instituted. For in all those Benefices, where the Predecessor had none of the Fruits accruing after his Death, the Bishop of the Diocese had (o) all the Profits during the Vacancy; and therefore, if the Institution were deferred till after Harvest, that Harvest as well as all other Profits of the Benefice, during the Vacancy, did all lapse to the Bishop, and he disposed of them, as he thought fit.

4. This Usage or Custom went no farther than Avoydances by Death; For if the Predecessor (oo) did resign his Benefice, or voided it by Cession, or was deprived of it, on the very day of the Avoydance, he lost all further Claim to any of the Profits, which should afterwards accrue, and they all went to the Successor. But if he did resign the Benefice, or left it by Cession, or were deprived of it after Harvest, he was bound out of the Profits, which he had

(n) Successor tamen defuncti, si ante tempus Messium fuerit institutus, tam fructus Terræ, quam Decimarum integre percipiat. Walterus de Cantilupo in loco supra citato. (o) See the Preamble to the Act, 28 H. 8. c. 11. (oo) Consuetudo providens in casu mortis non extenditur ad alios casus. Lindwood ibid. ad verb. decederint.

had afore received, to provide for the serving of the Cure, paying of the Pensions, and bearing, all other Burdens of the Church till the *Lady-day* following, so far, as the Profits received after the said Avoidance did not amount to be sufficient for it.

This Usage or Custom was peculiar to this Kingdom, and practised in it contrary to the Canon Law, and common Right, and the usage of all other Churches. But here it must be taken notice of, that although I name *Lady-day* for the time, after which the Minister might dispose of the ensuing Profits of his Benefice till the *Michaelmas* following, yet in all Diocesses, this day was not exactly observed for the fixed Term, from which the Minister had a right to this Usage. For in (p) the Diocess of *Exeter* it was *Midlent-Sunday*, in the Diocess (q) of *Winchester*, *Maundy Thursday*, and in this Diocess (r) of *Norwich*, *Easter-day*: but the Provincial Constitution of Archbishop *Edmund of Abington* (which confirm'd it to be a Law of the Church for this Province) puts it (s) on *Lady-day*: But all this comesto the same pass; implying, that at this time of the Year, the old Year's reckoning for the Profits of any Living ended at *Easter*, the Offerings then received were the first Profits of the New; and that he, that lived on his Benefice, till he had entred on the New Year, did thereby as it were, take Possession of the next half Year's Profits of it, and might dispose of them by his Will, as he should think fit, and whether this Year was reckoned to begin at *Midlent-Sunday*, *Lady-day*, *Maundy Thursday*, or *Easter-day* makes very little difference in the Matter. But the Provincial Constitution of *Edmund of Abington* being the Law, by which the Court of the Arches judged of all Causes of this Nature, which were appealed thither, this

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this same matter, ad mediam Quadragesimam, as well as the other. (q) Episcopus *Wintoniensis* in loco supra laudato. (r) Constitutio *Walteri de Suthfeld* supra laudata. (s) *Lindwood*, De Consuetudine c Nullus Rector.

(p) Vide Constitutionem Petri Quivil supra laudatam; For there the old Year is made to last, usq; ad Mediam Quadragesimam (vide supra Not 1) although in another part of the same Constitution, the new Year is made to begin, Dominica Quadragesimæ (vide infra Not x) I reckon there is a fault of the Copy in the last place, for it agrees not with the Title of the Constitution, which refers

this soon brought all these Diocesses, in which this variety was first found, to conform thereto, and make *Lady-day* to be in them also the Term, from whence this Usage did commence, as well as in the other Diocesses of the Kingdom. That it was so in the Diocess of *Normich*, appears by the Wills of many Clergy-men long before the Reformation, which are still remaining in our Registries, and whoever will examine the Registries of other Diocesses, will most certainly find the like Proof of this matter in them also.

And thus the Law continued till the time of the Reformation, when it was altered, and settled, to what it now is on this occasion. In (t) the 26th Year of the Reign of King *Henry* the VIIIth, the First-fruits of all Spiritual Benefices and Promotions, being by Act of Parliament given the King, two Difficulties did arise in the Executing of the said Act, one on the part of the King's Officers appointed to receive them, and the other on the part of the Incumbent, who was to pay them. For the Act, which settled the said First-fruits on the King, only providing, that no Incumbent should take Possession of, or meddle with the Profits of the Benefice, or other Spiritual Promotion, till he had compounded with the King for the said First-fruits, the said Officers, who managed this Branch of the King's Revenue were uncertain from what time to begin the said Composition, it not being declared, and stated in the said Act. And since, where the Predecessor lived till *Lady-day*, his Executors had the Profits till the *Michaelmas* following, and where he died before *Lady-day*, or voided the Living afterwards by Resignation, Cession, or by being deprived of the same, the (u) Bishop had the Profits till the next Institution, and often delayed to give the same, that he might the longer enjoy the Fruits of the Vacancy, the Clergy thought it a great Hardship upon them (as well they might) to be made begin their

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(t) 26 H. 8.
c. 3.

(u) 28 H. 8.
c. 11. §. 1.

Compositions for the said First-fruits of their Livings before the time, when they began to partake of the Profits of them; and to defer it so long would be a Damage to the King. And therefore to remedy all these Difficulties, it was Enacted, *Anno Dom. 1537*, in 28th Year of that King, *Chap. 11.* that the Year, for which the said First-fruits should be paid for any Benefice or other Spiritual Promotion, should begin and be accounted immediately from the Avoidance of the said Benefice, or Spiritual Promotion, (w) And that the *Tithes, Fruits, Oblations, Obventions, Emoluments, Commodities, Advantages, Rents, and all other Revenues, Casualties, or Profits certain, and uncertain offering, or belonging to any Archdeacons, Deanry, Prebend, Parsonage, Vivarage, Hospital, Wardenship, Provostship, or other Spiritual Promotion, Benefice, Dignity or Office within this Realm, or other the King's Dominions, growing, arising, or coming, during the time of Vacancy of the same Promotion Spiritual shall belong, and offer to such Person, as shall be thereunto next presented, promoted, instituted, inducted or admitted, and to his Executors towards the Payment of the First-fruits to the King's Highness, his Heirs, and Successors, any Usage, Custom, Liberty, Privilege, or Prescription to the contrary had, used, or being in any wise notwithstanding.* (w) Stat. 28 H. 8. c. 11. §. 3.

And by this Act the whole Benefit, which the Minister dying after *Lady-day* had from the following Fruits of the Benefice, or Bishops from the Vacancy of Livings, according to the former Usage, being wholly cut off; ever since that time the whole Right of the Predecessor to the Profits of his Benefice, at what time soever he died, ended at the Avoidance, and the next Incumbent's Right to the same hath from thence immediately commenced, at what time soever afterwards he might be instituted or admitted into the Benefice. And this doth not only hold in Parochial

chial Benefices, but also in Deanries, and Prebends, or Canonries; and therefore, if in any Church there be any Custom or Usage still continued, that the deceased shall have any time in his Deanry, Prebend, or Canonry after his Decease (as in some there is) it is directly contrary to this Statute, and cannot hold good in Law.

And thus far having stated, what was the ancient Usage in this Land for the settling of the Right between Predecessor and Successor in Ecclesiastical Benefices, and also what is the present Law concerning it, I now come to consider, what is that Alteration, which you would have now made herein.

From the Law as now established, you say, there follows the Hardship, that in case a Minister dies before Harvest, although he hath performed all the Duties of the Cure for the whole Year past, he loseth all the Profits of the Benefice, and the next who comes into it enjoys them all, though he hath done none of the Duties to entitle him to them, and therefore for the preventing of this Hardship you would have an Act of Parliament past to give the Minister deceased a Share in the ensuing Harvest, and other Profits of the Living arising from it after his decease in Proportion to the time, which he lived in the Cure from the *Michaelmas* preceding. And for this you plead not only Justice, but also Charity in respect of the Family of the Deceased, who being by his Death deprived of the Means whereby hitherto they have been supported are often left in such low Circumstances, as are very deserving of it. But this, if effected as you propose, how ever plausible it may appear at first sight, yet, if thoroughly considered, will be found to have neither Charity nor Justice in it, but that on the contrary it will be a very great and unreasonable Hardship upon the Minister, that next succeedeth, and of great Damage to the Church
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of God in general, and very prejudicial even to them for whose Benefit you pretend to design it; of each of which I hope I shall thoroughly convince you by the Reasons which follow.

For, 1st. As to the Charity of your Proposal, if the Poverty of the deceased Minister pleads any thing for what you would have in respect of the Family, which he leaves behind him, most an end the Poverty of the Successor pleads as hard against it. The Deceased Minister may have had long Advantages of gaining, but the Successor is but just beginning the World after a very expensive Education, and he begins it with great Charges for Institution, for Induction, for the Stamps of his Instruments, for First-fruits, for removing, for settling at his Living, and for furnishing his House. And by that time all this is done, the Successor usually comes into the Living much poorer, than any Predecessor may be found to go out of it. And therefore if Charity be an Argument for the Predecessor, why should it not also be considered for the Successor? If there be Charity due to the Wife and Children of the deceased, by all means let them be considered, and provided for as Charity directs; but why must the whole load of it be cast upon one that needs Charity perchance as much as they? What is this but to oppress one poor Person to provide for another, and in order to do an act of Charity on the one Hand, to become guilty of the Breach of that and Justice too on the other? The proper Means of Charity are not the few Mites of the Poor, but the Superfluities of the Rich, and therefore if the deceased Minister leaves a Wife and Children behind him fit objects for Charity, let his Rich Parishioners, his Wealthy Neighbours, and his other Friends, Relations, and Acquaintance, open their Hearts and their Purses on this Occasion, and out of their Abundance Relieve and Comfort them in their wants.

These may have partaken of his Hospitality, had the Benefit of his Ministry, the comfort of his Friendship, the pleasure of his Conversation, and many other Advantages from him, while he lived among them, and therefore are more bound to shew Charity and Kindness to those he leaves behind him, when dead, than the next Minister, who succeeds, who being most an end poor himself, and wholly a Stranger to the deceased, hath neither where-with, nor any such Obligation upon him to shew that Kindness and Charity to them, which you would put upon him. And therefore, how much soever the Family of the Predecessor may need Relief and Comfort after his Decease, I cannot call it Charity to supply their Wants in the Way which you propose out of that which belongs to the Successor, because I reckon it will be a greater breach of Charity to take from and impoverish the one, than it will be an act of Charity to give to and relieve the other.

But, *2dly*, Supposing the Successor be not in such low Circumstances, as I have said, but is plentifully provided for by an Inheritance of his own (as it sometimes happens) yet his share of the Charity will be sufficiently paid in other particulars of Expence for the deceased, which usually fall unavoidably to his Account to bear for him. For those Ministers, who leave Wives and Children behind them in so low and poor a Condition, as to be fit Objects for Charity, use also to leave at the same time great Dilapidations to be repair'd, and great Arrears of Tents to be paid by them, who next succeed. And if the Successors take all this upon themselves without requiring from the Executors of the deceased those Reimbursements, which the Law will give them (and this they always must, when nothing but Objects of Charity are left behind) I think this alone will be sufficient for their share of the Charity, and if all others, who are more obliged, would

would but do as much, there would be no need of any further complaint of this matter.

3^{ly}, Many Ministers die without having any Family at all, and many that have Families do leave them in such a plentiful Condition, as to need no Charity to support them after their Decease; and here certainly there can be no room for your Plea of Charity, and yet your Proposal extends to them, as well as the rest, and they also must have a share in the next Harvest of their Successors, how little soever they want it, and how much soever the others, who most an end come bare into their Livings, may stand in need of it. And what is this, but to rob the Poor to give to the Rich, and take from those, whom you ought rather to help, to give to them, who stand in no need of it? Here you can by no means be said to do any deed of Charity in respect of those to whom you give, but in respect of those from whom you take you will be very often guilty of a great and very oppressive Breach of it.

4^{ly}, There are but two justifiable Causes of the Poverty, in which a Minister may leave his Family behind him. 1. The smallness and insufficiency of the Living to maintain him; and, 2. The low Circumstances in which he may first come to it. For where the Livings are so small as to be scarce sufficient to find a daily support for the Minister and his Family while he is living (and abundance of such there are in this Realm) no wonder then that his Family be left in Poverty behind him after his Death. And although the Living be of a better size, yet if the Minister be impoverished on his first coming into it (as is the case of many) it is often a long time before he can again recover himself, and if he dies in the interim, its certain his Family must be in want after his Decease. And in both these Cases there is all the Reason in the World to move for Charity for them, but the Method, which
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you have proposed for it, is the improperest and the worst that can be pitched upon. Would you go to work like a true Physician to remedy this Malady of the Church, you should begin at the Cause, and there first endeavour the Cure by removing that which makes the Disease, and think of some way of making Livings to be sufficient Maintenances for those that officiate in them, and lessening of that Charge, which so often impoverisheth them at their first coming into them. But instead of doing this by laying the whole burden of the Charity upon the Successor you will encrease both these Causes, which bring Ministers to Poverty, and thereby will oppress more, than you will help, and make more Objects of Charity, than you will relieve.

For, 1st, If it hath been the smallness of the Living, that hath made the Predecessor die poor, will not that, which was a small Living to the Predecessor, be a small Living to the Successor too? And if you take out of it to provide Charity for the Relief of the Family of the Predecessor, will not this be to make it smaller to him that next hath it? And will you not in so doing make that, which was the cause of Poverty to the Predecessor, be much more so to the Successor, and thereby take the readiest way to reduce him and his Family to want Charity more than the other? If the smallness and insufficiency of the Living to maintain a Minister was that, which made the Predecessor poor, this is a good Reason, why you should diminish nothing of it to him that next succeeds, lest thereby you bring him and his Family into a worse Condition than the former, and so become the Cause of making more Poverty in the one, than you relieve in the other. For if the Predecessor, who perchance came intirely into the Living at first, without any such Deduction, as you would now put upon it, could not with it keep his

his Family from falling into Poverty, much less will the Successor be able to do it, when so Defalcated in the beginning, as you would have him to be. And therefore this way to provide Charity for the Poor Families of Ministers deceased, will be in this Case manifestly to encrease the cause of Poverty among Ministers, and make the Successors to leave their Families in much greater Want, than those that went before them, and so, Tinker like, while you mend one Hole, you will make others twice as big.

2. If it hath been from the low Circumstances, in which Ministers usually come into Livings, that any of them leave their Families in Poverty behind them, if you take from them the next Harvest after their Admission, will not this be to sink these their low Circumstances much lower, and thereby make them in this Case in the same manner as in the former, leave their Families, when they come to die, in a much poorer Condition, than those that went before them? To impoverish Men in the beginning, whatever their Profession may be, it must be acknowledged, is the readiest way to make them poor all their Life after. And if this hath been the Cause, that made the preceding Minister leave his Family in Poverty behind him, if you take any thing of the Living from the next Successor on his first coming to it, will not this be to encrease this cause? Will it not be to impoverish him more than the other, and the certain way to make his Family in the result much more need Charity, than that which you would now relieve? For if the Predecessor under the Burthen of other Charges, with which he came to the Living, could not avoid this Poverty, how much less will the Successor be able to do it, if further loaded with what you would now impose upon him? This must certainly be a very bad Method of Charity, in which, while you help one Person in want, you reduce another to be in

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want much more, and while you relieve one Object of Charity, you lay a Foundation for the making of another perchance twice as great. Were the thing duly examined into, you would find that more Ministers by a great Number come Poor into Livings than die poor out of them, and that there is much more need of Charity for them at their first Admission to their Benefices, to set them up in the World, than for the Poorest Families, they may leave behind them at their Decease, to carry them through it. And since the Efficacy of their Ministry, and the Authority, which they ought to have over their People, doth very much depend on the Circumstances, in which they make their Appearance among them, it is of much greater Importance that these should be helped and relieved, than the other. And therefore you may more justifiably, and with a truer Reason of Charity take from the Predecessor to help the needs of the Successor, than from the Successor to relieve the wants of the Predecessor, how Poor soever the Family may be, which he shall leave behind him. I have already mentioned how many Ways there are to waste what a Poor Clergy-man may have of his own, before he can get a full Settlement in a Living for his Support. First a chargeable Education to fit him for his Function, next perchance a long expectancy upon his own Charge before he can get a Living, and when hath obtained a Presentation to one, there are Fees of Institution, Fees of Induction, Taxes for the Stamps upon his Instruments, Compositions for First-fruits, Charges for removing, Charges for settling, Charges for making the House fit for him, and Charges for Furniture, and these most an end exhaust all that he hath of his own at his first coming to the Living, if not a great deal more, and what then shall he have to live on, if you take from him the next Harvest too? I desire you would consider
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what an hard Case such a Minister must be in. The best way he can take to help himself, will be to borrow Money, and run in Debt, which is a way bad enough, though the best which he hath to chuse, but if he hath not Credit enough to be trusted, (and how can it be expected that he should, when he hath nothing else to make him responsible, but his interest in his Living, which, if he die, must die with him) his next shift (and this is that which most in this case have recourse to) is to take up his dues of his Parishioners beforehand, and to abate one half to have the other paid before it be due. For in this Case the crafty Countryman will be sure to make his Advantage of the Minister's Necessities, and advance nothing beforehand, but with such Abatements as shall pay him sufficiently for it. And when the Minister hath once on such an Exigency been forced to sink his Compositions, it will be a good while after before he will be able to raise them again to their former Value. And when a Minister hath these Difficulties upon him, usually half his Life is spent in struggling with them, before he can overcome them, and will you then encrease these Difficulties by adding more Charge, and more load upon him at his first coming to the Living? Can you find Charity no way else for the relief of the Family of the Poor Minister, that died out of the Living, but by sucking the Blood of the next Successor, who comes as Poor, if not Poorer into it? What is this but to take the poor Man's Lamb, and to ease the Rich Neighbours, Friends, and Relations of the Deceased (who are the properest Persons, that ought to contribute to the Charity) cast the whole load of it upon one, who needs it as much as the other? If you would find a way to help the Poor Minister, who comes into the Living under all these Disadvantages, it would be a much more laudable Undertaking, and certainly the greater Charity

rity of the two. For all Trades in the Kingdom in most Corporations there are Funds and publick Stocks of Charity for the setting up of new Beginners, and indeed it is one of the best, and properest Charities, that I know. For thus to help Men at first, is to relieve them all their Life after, and put them in a way not only to avoid want themselves, but to be able to be useful in their Generation, and Administer to the Wants of others. But with the poor Clergyman you are for taking the quite contrary way; instead of helping him, when a new Beginner, you are for taking from him, and instead of setting him up on his first coming to the Living, you are for pulling him down, and impoverishing him, and so under the pretence of charitably relieving the Poor Family of his Predecessor, you very uncharitably reduce him to such Streights, as make him and his Family to need it often twice as much. To this you will answer, every Minister that comes into a Living is not in this case. And I reply, neither doth every Minister, that dies out of a Living, leave a Family behind him in need of that Charity, which by your Proposal you would procure for him: I think I may safely say a great many more Ministers come Poor to their Livings, than die Poor out of them, and if so, how much soever Charity may plead for your Proposal for the sake of the one, it must plead much more against it for the sake of the other, and it will not be so often an act of Charity to give to the Poor Family, which a Minister may leave behind him, as it will be a breach of Charity and Justice too to take from the next Successor wherewith to do it.

But you will here say that there are other things, which may bring a Minister to Poverty besides the ill Circumstances, with which he first comes to the Living, or the insufficiency of it to maintain him, which none of my Objections hitherto alledged may reach, because the
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Living may be so plentiful, as sufficiently to enable the next Incumbent to bear all that, which you would impose upon him, without the danger of impoverishing either himself or his Family after him by it. To which I answer, that there may be some extraordinary Accidents, as a sudden Fire, or the like, which may impoverish a Minister in a great Living as well as in a small; but these are always best relieved, while the Calamity is fresh, and the Compassion, which it deserves, seldom fails of procuring from well disposed Persons that Charity, which is sufficient for it, if then asked for; and therefore you need not reserve the load of it to incumber the next Successor. Bateing these Accidents, if a Minister comes into a Good Living, and in Good Circumstances, I cannot see what justifiable Cause there may be to bring him to that Poverty, as to need Charity for the Relief of his Family after his Decease, because if he manageth his Affairs with that prudent Sobriety, which becomes a Minister, such an one might be able to lay up for his Family while living what might be sufficient to keep them from wanting after his Death. Unjustifiable ways indeed there are many, which often reduce the richest to a Morsel of Bread, and bring down whole Families from the height of Opulency and Honour to be as low as *Lazarus* in the Dust. And if any of the Clergy have by such Courses brought Themselves and Families into Poverty, I hope it is not for the sake of those that you are endeavouring such an extraordinary Method of Relief. As for such of the Clergy who by reason of the insufficiency of their Maintenance, or any other justifiable Cause have been reduced to Poverty and Want, there are the strongest Reasons both of Charity and Justice on their side, that all suitable Provision should be made for the Relief of the Families they may leave behind them. But if they have Simoniacally come into their Liv-

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ings at first, and by the Debts, which they have contracted to make the Purchase, impoverished themselves in the beginning, and through the Curse of God upon them for this Wickedness, have never been able to recover themselves afterwards (as it most an end happens in this Case) or if they have wasted their Substance in dissolute, and profuse Living; or have by any other such unjustifiable and evil Ways brought Themselves and Families to Ruin and Want, such ought to bear the Consequences of their Miscarriages, that others seeing what such Evil Courses bring Men to, may be deterred by the Example from doing likewise. I mean not that they should be left to starve. But since their Poverty hath been contracted by such Evil Courses, I think it would be very unreasonable to expect that any Government should concern themselves for the sake of such to make new Laws, and establish extraordinary Methods in order to their Relief. For this would look like encouraging Wickedness, and giving Reward to Vice. And therefore, if you have such in your View for the Relief, which you would procure, your Project is against the Interest of Virtue, and the Interest of Religion, and no one, that hath a regard to either, will joyn with you in it. I confess I find for the first introducing of that Custom of allowing the Predecessor in an Ecclesiastical Living the next Harvest after his Decease, such an odd Reason given, as the Miscarriages of those, who were to have the Benefit of it, which alone with me is sufficient to discredit its Restoration, as I hope it will with every body else, if it be your Design to bring it in again upon the same Foundation. For we are told by *Peter Quivil*, who was Bishop of *Exeter* in the Reign of King *Edward* the First, that the Occasion of first introducing this Constitution was, (x) *That*

(x) Sæpe con-
tigit nonnul-
los Ecclesia-

rum Rectores vitam ducere dissolutam, ut cum ad vitæ finem pervenerint, non habeant in bonis, de quibus Ecclesiarum suarum defectus tam in Ornamentis quam in domibus vale-

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ant reparari, vel Creditoribus suis de eo satisfacere, quod sibi debetur, quapropter laudabilem nostræ Diœcesis consuetudinem approbantes statuimus, ut quilibet Beneficiatus nostræ Diœcesis, si die Dominica Quadragesimæ quacumq; hora vel postea decesserit, fructus Beneficii sui subsequenti Autumni liberam legandi habeat potestatem. *Spelmanni Concil.* Tom. 2. p. 389.

it did often happen that Rectors of Churches did lead such dissolute Lives, that when they came to Die, they did leave those Debts behind them, as would never be paid, unless the next Harvest after their decease were allowed them for this purpose. But this is the first Instance I have ever met with, where the Faults of Men have been alledged for the Reason of a Law granted in their Favour, and for my part I must desire to be excused from having any thing to do in the making of another. For to make a Law to help Men out of these Inconveniencies, which they draw upon themselves by their ill Practices, and dissolute ways of Living, is to encourage them in those Evil Courses, which it ought to be the aim of all Good Laws to correct and amend. In this Case I think instead of remedying the ill Consequences it would be much better to remove the ill Causes, which produce them, and find some way to prevent that *Simony*, and reform those ill Courses in Clergy-men, which bring them to Poverty, rather than provide for the relieving of them, when under it. Were the Patron obliged to take the Oath of *Simony* against selling the Living, as well as the Clerk is against buying it, it would go a great way to remedy the former, and the strict executing of the Canons would soon amend the other. And therefore if you could procure a Law to Enact, that Patrons, whensoever they present to any Living, should take such an Oath; and find out a way to make the Governours of the Church more diligent in correcting what is amiss in the Clergy, you would then strike at the root of the Evil, and soon remedy the whole Mischief which proceedeth from it; but the way, that you propose, will be to propagate it by rewarding the
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Fault, and give Encouragement to others to do likewise.

And thus much having said of the Charity of your Proposal, I next come to consider the Justice of it. For you say it is very unjust if a Minister dies before Harvest, that the next Successor should go away with all the Profits of it, and therefore you would have a Law made to divide the next Harvest between the Predecessor and the Successor in proportion to the time, that each hath served the Cure from the *Michaelmas* preceding. But to convince you of your Mistake herein, I shall make it appear to you, 1st, That there is no Injustice in the present Law, which gives the Successor all the Profits, that accrue after the Decease of the Predecessor, at what time soever he shall die. But, 2^{ly}, That on the contrary there would be a great deal of Injustice and Oppression too, should it be otherwise settled according to that Alteration, which you would have made herein.

And, 1st, There is no Injustice in the present Law, which gives the Successor all the Profits of the Living, that accrue from it after the Avoidance. For,

1st, There must be a Determinate time, where the Right of the Predecessor shall end, and that of the Successor begin. And what time can be properer for this, than the day of the Avoidance, which the Law hath appointed? When the Minister dies, he is naturally put out of possession, and therefore what fitter time can the Law appoint to put him legally out of it also? And since from that time all the Services and Burdens of the Church must be charged upon the Successor, what is more reasonable, than that from that time all the Profits should belong to him also? And although there may be in this some seeming Inconvenience in case a Minister dies immediately before Harvest, yet you must consider, Laws are not to be made for particular Cases, but for the general Good, and therefore, though

in one or two Cafes, a Law may feem to bear hard, (and what Law is there that doth not?) yet if in all others it be for the general Good, this is fufficient to vindicate the Juftice of it. And this is plainly the Cafe in Hand. For whatever that Inconvenience may be, which you mention, in refpect of the Predeceffor, there is no alteration, which can be made to prevent it, which will not in other Refpects, if thoroughly weighed and examined, be found to have much greater, as in particular I hope I fhall fully make appear of that which you propofe.

2. There is no Miniſter, that enters on a Living, but knows it to be the Condition of the Tenure, with which he holds it, that on the Day of its Avoidance, whether by Death or otherwife, all his Right therein muſt ceaſe. And therefore ſince he hath taken it with this Condition, he hath conſented to it, and conſequently no Injury or Injuſtice can be done him in the executing of it, at what time ſoever the Avoidance ſhall happen. This Avoidance may indeed happen more inconvenient to him and his Family at one time than at another, and ſo may the expiration of a Leaſe by Lives to the Tenant, and yet no one can ſay, that any Injury is done him, if the Landlord entreth and ſeizeth, aſſoon as the Lives are dead, by which the Eſtate is held.

3. If the Miniſter hath the Diſadvantage of it, when he dies immediately before Harveſt, on the other hand he hath as great an Advantage, when he dies immediately after Harveſt. For as in the firſt Cafe the Succeſſor goes away with the whole Profits of the Year from the Predeceſſor, ſo in the ſecond Cafe the Predeceſſor keeps them all from the Succeſſor, and it bears altogether as hard upon the Succeſſor in the laſt Cafe, as it doth upon the Predeceſſor in the firſt. And every Miniſter, when he firſt comes into the Living, is in as much likelyhood to make

the Avoidance at the time which will be advantagious to him, as at the time which will be disadvantageous, and therefore which ever of them happens to be his Lot, there is no reason of Complaint, since he had an equal Hazard unto both.

4. The end of the Endowment of the Church being the support of God's Worship in it, its reasonable the Law should take more Care of him, who hath the Charge of this Ministry upon him, than of the Family of the Predecessor, who have nothing to do with it. While the Profits of the Living accrue to the Incumbent, they are employed to the true end, to which they were devoted, and when they are given from him to any one else on what pretence of Charity soever, it is an unjustifiable Alienation from it.

5. If the Law puts no Obligation upon the Successor to allow any thing to the Preceding Minister, who died out of the Living, it must be remembred, it did put none upon that Minister to allow any thing to his Predecessor, when he came into it. And therefore since he came into the Living free from any such Incumbrance, how can it be said to be Injustice to him, if his Successor doth so too? If nothing be allowed to him, it must be considered, that in the same Case nothing was allowed by him, and the one must be set against the other.

And thus for having vindicated the Justice of the Law as now established; I shall in the next place lay before you the Injustice and Oppression, which must follow from that Alteration, which you would have made in it.

For, 1st, You take care for the Predecessor, that he shall have a Share in the Harvest in case he die before it, but take no care of the Successor in case he die immediately after it. For if in Justice, and Equity, as you pretend, any part of the Harvest be due to the Predecessor in

in the first Case on the Account of that part of the Year, he had served the Cure before Harvest ; for the same Reason there is a part of it due to the Successor in the latter Case, on the account of that part of the Year, which he served the Cure after Harvest. For the Christian Year is from *Lady-day* to *Lady-day*, and this in all Ecclesiastical Matters hath ever been more especially made use of, and particularly in that of Tithes, and Ministers Salaries, they having ever been reckoned, and paid according to this Year. And although the main Profits of the Living accrue at Harvest, yet it must be acknowledged, they are given for the serving of the Cure for the whole Year, that is, from *Lady-day* to *Lady-day*, and therefore, if for this Reason there be any Equity, that the Predecessor, in case he die before Harvest, be allowed out of the Profits of it in Proportion to that part of the Year, which he hath served the Cure from the *Lady-day* preceding, there is the same Equity, that the Successor, in case his Predecessor dies after Harvest, should also be allowed out of the Profits of it in Proportion to that part of the Year, which he hath served the Cure from the death of his said Predecessor to the *Lady-day* following, and that the Executors of the Predecessor be obliged in this Case to make an Allowance to the Successor, as well as the Successor in the other Case to make an Allowance to the Predecessor. And if it be hard (as you say) upon the Predecessor to be allowed nothing out of the Harvest in the first Case, it is much harder upon the Successor to be allowed nothing out of it in the other. For the Predecessor may have received the *Easter* Offerings, the small Tithes, and the Tithes of Hay, and hath also the Profits of the Glebes by the Law already established, if sown by him. But in case the Successor comes in immediately after Harvest, all is sweep'd off before his Right commenceth, and he must serve the Cure

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an half Year for nothing. For from *Michaelmas* to *Lady-day* scarce any thing of Tithes accrue. Besides if the Predecessor hath not received any of the Profits of the Year, which I have mentioned, yet he hath long had the Benefit of the Living before, and the Opportunity thereby of enriching himself; but the poor Successor hath had nothing, but Charge, and Expence in his Admittance, and therefore I think he may with more reason demand Allowance out of the Harvest of the Year in his Case, than the Predecessor can in his, and consequently it will be very great Injustice to give it to the latter, and deny it to the former.

2. Another piece of Injustice in your Proposal is, you are not only content to exclude the Successor that Equity in case he comes to the Living after Harvest, which you would procure for the Predecessor in case he die before Harvest, but in favour of the Predecessor, and to the further Oppression and great Damage of the Successor you would induce such a Change in the Year of Tithing, as hath never been as yet heard of in such Matters. For as the Ecclesiastical Year, which is from *Lady-day* to *Lady-day*, hath ever been made use of in Ecclesiastical Affairs, so particularly hath it in that of paying and receiving of Tithes. And therefore, while the old Constitution was in force, it did not give the Predecessor any Right in the Tithes of the next Harvest, unless he had entred on the new Year by living till *Lady-day*. And although it did give the next Harvest to the Predecessor, yet it did provide, (y) that if the Tithes accruing after Harvest were not sufficient to provide for serving the Cure, and discharging all other Burdens of the Church till the *Lady-day* following, what was wanting was to be supplied out of the Goods of the Predecessor, who had received the Harvest. So from hence it is plain that the Fruits of the Benefice, although received all at Harvest,

(y) Vide supra Nor (f)

vest, were to provide for the serving of the Cure, and all other Burdens of the Church for the whole Year, and this Year was from *Lady-day* to *Lady-day*. But now contrary to the practice of all Christians hitherto observed in such Matters you will have the Year to be from *Michaelmas* to *Michaelmas*, that so the Predecessor may according to your Project be entitled to the greater share in it by having his Part allotted in proportion to the time, that he hath served the Cure from the *Michaelmas* preceding, and the Successor be the more grievously oppressed by it. For according to this Scheme at what time soever the Predecessor dies, though it be immediately after the former Harvest, he must have a share in the next too in proportion to the time, he lived after *Michaelmas*, and the Successor will not only be forced to serve a great part of the Year, as perchance from *October*, or *November*, to the *Lady-day* following without receiving any thing for it, but also, when the Harvest comes to reward his Labours of the following Year, he must be curtail'd of some of that too. Had your design gone no farther, than to allot the Predecessor a Share of the Harvest in proportion to the time within the Year, that he had served the Cure, that is; from the *Lady-day* preceding, it would have had some show of Equity in it, because the Fruits from *Lady-day* to *Lady-day*, at what time soever they accrue, are assigned for the serving of the Cure from *Lady-day* to *Lady-day*. But to assign him a Share in the ensuing Harvest for the serving of the Cure before *Lady-day*, is to pay him for that which he hath been paid for already in the Fruits of the Former Harvest, and hereby the Successor, who comes into the Living after Harvest, will not only be excluded his Share of that Harvest, which is due to him by the same Equity, whereby you claim any thing of it for the Predecessor, who died before Harvest; but also by your thus Changing the

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Year, and beginning it at *Michaelmas*, contrary to all former usage he will be forced to allow the Predecessor, where the Predecessor ought to allow him. And will not this be double Oppression upon him?

3dly, The greatest piece of Injustice in this Matter is, you take from the Successor, that which he hath bought and paid for. For the next Year after the Avoidance is not the Successor's, but the Queen's, and although he hath the Profits, yet it is by Composition and purchase from her Majesty. Whatever accrues from the Living after the Day of Avoidance for one whole Year are the Queen's First-fruits, and the Minister for that Year is only the Queen's Tenant, and therefore, if you will have a Share of the next Harvest for the Predecessor, who died out of the Living before Harvest, it would be properer for you to go to the Exchequer for it, than to the Successor. But here you will say the Compositions for the First-fruits are usually so moderate, as to leave sufficient over and above out of which to make that Allowance, which you would have for the Predecessor. To this I reply,

1. Whatever the Compositions are, the Queen's Title comes between the Predecessor and the Successor, which cuts off all manner of claim, that the former may pretend to make upon the latter for any part of the Profits of the Living, which he shall receive after his coming to it. For from the day of the Avoidance, the Fruits from thenceforth accruing for one whole Year after are all the Queen's, and the Successor hath them no otherwise than by Virtue of his Composition with her, and therefore, if the Predecessor hath any reason of Claim to any part of these Fruits on the account of his having served the Cure some part of the Year, in which they accrue, he ought to make it upon the Queen, who hath the Original Right in them, and not upon the Successor, who enjoys them only by virtue

due of his Bargain and Purchase from her. For how moderate soever the Price may be, he buys the whole, and from one that hath Right to sell the whole, and therefore it is all Reason, that he as well as all others in the like Case should have the full Benefit of his Bargain; and if it be a good one, it is the Pleasure of the Queen to grant it unto him, and what can it be then but Injustice and Oppression to deprive him of any part of it? Is it not hard enough upon the Minister already, that he is forced to buy the first Year's Profits of his Living, and will you then make it harder upon him by obliging him to compound again for some part of them with the Executors of the Predecessor? What is this but to make him pay twice for the same thing, which he ought to have without paying any thing at all, and so put a double Vexation upon him?

2^{ly}, I acknowledge, that for the most part the Compositions are not above a sixth part of the real Value of the Livings, but sometimes it happens, that they are the full real Value, and some Instances may be given, where they exceed it, especially in Vicarages, because the Vicars being generally in the Endowments of their Vicarages, charged with all the Burdens of the Church, they compound for the whole, that is, for the Improropriator's part of it, as well as their own, and here certainly you must allow it to be very hard and unjust to make the Successor allow any thing of the first Year's Fruits to the Predecessor, when the Compositions for them with the Crown have swallowed them all before.

3^{ly}, Where the Compositions are lower than the real Value, it is to be considered, he serves the Cure into the Bargain, and bears all other Burdens of the Church, and that the Abatement hath been made purely on the Account hereof; and therefore there is all the Reason in the World, that he only, who serves the Cure during the
Year,

Year, for which the First-fruits are paid, should have the Advantage of it. For while the First-fruits were paid at the full Value of the Living, the Minister served the Church the first Year for nothing, which being found very inconvenient, as causing often a Neglect of the Cure through the inability of the Minister to keep Residence upon it, while he had no Profits of the Benefice, for remedy hereof Pope *John* the XXII^d *Anno* 1317, by his Constitution (a) *Suscepti Regiminis*, moderated the Compo-

(a) Cum in nonnullis Ecclesiis observetur, quod fructus primi vel secundi aut alterius cujuscunque sequentis anni Beneficiorum vacantium defuncto, vel Fabricæ, aut Ecclesiis, vel personis habentibus Annalia de Consuetudine, Privilegio, vel Statuto applicantur in totum, ita

quod illi, qui hujusmodi Beneficia canonice obtinent, & ad quos alios de jure fructus ipsi spectare deberent, nihil inde percipiunt, unde illud inconueniens sequitur, quod commode nequeunt ad impendendum servitium debitum residere in Ecclesiis, in quibus Beneficiati existunt. Nos de illo super his remedio providere volentes, per quod ii & illi in fructuum prædictorum perceptione participant, & Ecclesiæ debitis servitiis non fraudentur, præsentî Decreto statuimus, quod illi qui fructus prædictos sibi hæctenus integre vendicabant ex privilegio, consuetudine, vel statuto nihil exinde ultra summam, pro qua unumquodq; Beneficiorum ipsorum consuevit in solutione Decimæ taxari, quovis modo percipiant, sed ipsius Summæ perceptione duntaxat sint omnino contenti, totali residuo prædicta obtinentibus Beneficia remansuro, nisi forsân illi, qui fructus eisdem soliti fuerant cum integritate percipere, pro se mallent ipsum habere residuum, &c. Extra Johan. 22 De electione & de Electi potestate C. Suscepti Regiminis.

(b) Extra Comm. De Præbendis & Dignitatibus C. cum Nonnullæ.

(c) Theodor. de Niem. De scismate lib. 2. c. 7. Thomassin Part. 3. lib. 2. c. 58. Sect. 12.

sitions to the Value of the Living, as Taxed in the Pope's Books for the Payment of Tenths, whereby it was intended to leave about one half of the Profits to the Incumbent for serving the Cure. For it gives an Option to the First-fruits-gatherer either to take the Taxed Value, or the Overplus, which it would not have done, but that the one was supposed to be as good as the other. And afterward the same Pope by another Constitution (b) *Cum nonnullæ*, *Anno Dom.* 1319, directly states it as to those Benefices, of which there was no Tax in the Pope's Books, that one half only of the first Years Profits should be paid for the First-fruits, and that the other half should go to the Maintenance of him, that had the Benefice. And Pope *Boniface* the IXth, (c) who first made the Payment of First-

First-fruits a Tax upon all the Churches under his Subjection following the Reason of those former Constitutions did *Anno Dom.* 1392, make it a general Rule for all Benefices, that they should pay no more, than *(d)* one half of the real Value of the first Years Profits, and that the other should be for serving the Cure. Here in *England* the First-fruits were paid according to the *(dd)* *Lincoln* Tax made in the 20th Year of King *Edward* the 1st. And the Pope had them in all the other Diocesses of this Kingdom, excepting this of *Normich*, but here as well Tenths as First-fruits did, *ex privilegio*, belong to the Bishop till the Reformation, who in the receiving of them followed the Constitutions of Pope *John* the XXII^d, and Pope *Boniface* the IXth, in never taxing them at above one half of the real Value of the Benefice, as it appears by the Register Books still remaining in the Principal Registry of this Diocess. For in the appropriation *(e)* of the Church of *Berney*, *Anno* 1350, although the Bishop doth endow the Vicarage with ten Marks *per Annum* out of the Revenues of the Church, yet he taxeth it but at four Marks for First-fruits and Tenths. And in the Appropriation of the *(f)* Church of *Godereftin*, *Anno* 1354, although he endows the Vicarage with ten Pounds *per Annum*, yet he taxeth it for Tenths and First-fruits but at five Pound *per Annum*. But at the Reformation they were taken here from the Bishop, as well as from the Pope in all other Diocesses of the Kingdom, and given to the Crown in the 26th Year of King *Henry* the VIIIth, who thereon made a new Valuation of all the Ecclesiastical Benefices and Promotions in this Realm, by which their First-fruits and Tenths have been ever since paid. And in the making of this Valuation, as in all former Valuations since the time of Pope *John* the XXII^d, regard was had to the Reason of his Constitution *Suscepti Regimini*, and Abatements were made in Consideration of the

(d) Thomassin
Part 3. lib. 2.
c. 59. § 13.

(dd) So called
because made by
the Bishop of
Lincoln.

(e) Registr.
iv. fol. 18.

(f) Registr.
iv. fol. 20.

serving of the Cure during that Year in which the First-fruits were paid. And therefore whatsoever the Minister hath of that Year's Profits, over and above his Composition, is his Allowance from the Crown for serving the Cure for that Year, in which the Crown hath the Fruits of the Living, that is, from the Day of the Avoidance; and though the Overplus be now grown by the Alteration, which hath since hapned in the value of Mony, much higher than it was at first intended, yet still it is the Allowance from the Crown for the serving of the Cure from the day of the Avoidance, and this cuts off all Pretence, both in Justice and Equity of any Claim from the Predecessor to any part of it, for his serving of the Cure before the Avoidance. For it is the Right of the Crown, and not the Right of the Successor, that intervenes to deprive him of it. And if the Predecessor be a loser on this Account in not having his share of the Profits of the Living in Proportion to that part of the Year, he had served the Cure before his Decease, which you think he hath an equitable Right to, the Successor on the same account loseth much more, and why then should not the one bear it, as well as the other? If the Successor must suffer his loss without Reparation; it's all reason that the Predecessor should do so too, and not for that little, which he loseth, seek to make himself amends upon the other, who loseth on the same account Perchance five times as much.

But, 4^{ly}, Whatever Overplus there may be of the Profits of the Living over and above the Composition for the First-fruits, there are other Charges, which the Church is burdened with on the coming of a new Incumbent to it, which are enough to swallow it, and often a great deal more. For there are Fees for Institution, Fees for Induction, Taxes for Stamps, and a great many other Charges, which I have already mentioned, and when all these are de-
 frayed,

frayed, the wealthiest and most opulent Livings in the Kingdom will scarce have over and above sufficient to pay them the meanest Curat's Wages for serving the Cure ; and what then can be more unreasonable, than to deduct any thing farther from him to give to the Predecessor, when for the most part he hath nothing left for himself? If you say the Successor may make himself amends out of the future Profits of the Living, I reply, so may the Predecessor out of the preceding, and the latter may much better bear his part of the Loss on the Account of what he hath already received out of the Living, than the former can on the Account of what he is hereafter to receive from it, and that especially since the former hath a certainty of Possession in what he hath already received, which the latter hath not in that which is to come, but after he hath advanced what you would have for the Predecessor, may perchance never live to have it again reimbursed unto him. But if otherwise, what pretence of Claim can you have for the Predecessor beyond the Profits of the first Year? And if there be nothing of them left to the Successor over and above the necessary Burdens of the Church (as is most an end the Case) but what he hath bought and paid for in his Composition for the First-fruits, must not every one say, that it is contrary to all Reason and Justice to take any thing of that from him?

And thus far having I hope fully convinced you, that there is neither Charity nor Justice in your Proposal, I have in the next place to object against it, that it will be of great Prejudice to the Church, as tending very much to the Hindrance and Obstruction of that Work, for which a Ministry is appointed in it. For the Work for which a Ministry is appointed, is to support and maintain the Worship and Honour of God, and promote Piety, Holyness, and Righteousness among Men, and herein the grand
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end of Religion, and the sole Interest of the Church doth consist. And in order to the carrying on of this Work, it is necessary that every Minister should be resident upon his Cure for the attending of it, and there have that Authority among his People, and that influence over them, as may incline them to hearken to his Instructions, be guided by his Directions, corrected by his Reproofs, and have that due Regard to his Ministry in all other the Duties of it, as may make them effectual to all the Ends for God's Honour, and Man's everlasting Salvation, which they were ordained for. But how can they reside as long as deprived of their Maintenance? or if they should, How can they have any Authority among their People, or any Influence over them for their Good, if you do by adding more Burdens upon them send them into their Livings in such low Circumstances, as must expose them to their Scorn and Contempt? Is it not by reason of the too great Burden of Charges, which is already upon Ministers at their first coming to their Livings, that it is usually a Year, and sometimes longer, before they can be in a Condition to settle and reside upon them? And is not this a very great Mischief to the Church? For doth not the Honour and Worship of God, and the Salvation of the Souls of the People all this while become neglected, and suffer Damage hereby? And therefore if you add to this Burden by your new Charge of an Allowance to the Predecessor, will you not thereby add to the Cause of this Mischief, and encrease that Evil of Nonresidence, which is of so great Damage to the Church of God? For the greater you make the Burden of Charges upon them, the longer will it be, before they will be able to reside, and consequently the longer will the Honour and Worship of God, and the Salvation of the Souls of the People be neglected and suffer Damage thereby, in those Parishes to which they are called.

ed. And therefore while under the notion of Charity you thus disable Ministers from attending their Duty, you run into Impiety, and by becoming a Cause of Nonresidence, make your selves guilty of that decay of Religion, and neglect of the Souls of the People, which is always the Consequence of it, wherever it happens, and in so doing, Sacrifice God's Honour, and Christ's Flock to the Bag of the Predecessor. And if they should go to their Livings while Low and Impoverished, the case would not be at all the better, but for the most part rather the worse. For it may be less damage to the Church for a Minister to be for a while absent from his Parish, than to come thither in such poor and low Circumstances, as may make him be contemned and despised by his People on this Account perchance all his Life after. For when a Minister grows contemptible among his People, he usually loseth all the Effects of his Ministry over them; Men seldom caring to be any more either Guided or Instructed by such, whom they have once learned to despise. And nothing conduceth more to make Men contemptible, than Poverty and a meanness of Condition below their Station. For the Generality of Men look mostly to the outward Appearance, and usually measure the Respects, which they give to any one, by the Figure, which he makes among them in his way of Living, and the sufficiency of his Purse to support it; and therefore if the Minister which comes among them fails here, whatsoever the Abilities of his Parts, and Learning, or other worth may be, this will not ballance the Matter with them, or save him from that Disrespect and Contempt, with which they usually treat all others in the like Case. For they seldom have Penetration enough to look further than this, or Judgment to discern what is beyond it; and if they have, they are used to esteem Men only by their outward Worth, and not

their inward ; and therefore if a Minister comes poor, and low among them, he shall be sure to be despised, how valuable soever he may be in other Respects ; and how then can it be expected, that his Ministry should have any effect among them ? Besides, Poverty in a Minister often makes him, as well as other Men, to degenerate from himself, and sinks his Spirit below his Profession. For he that is devoted to this Office is separated to the Contemplation of the highest things, and how can his Mind be free to this, when he is put to Difficulties for his daily Bread, and oppressed with the hardship of wanting wherewith to live ? It's a common saying, that a scandalous Maintenance makes a scandalous Ministry, and Experience sufficiently manifesteth its Truth. For where there is want of a Maintenance sufficient to support a Minister, and keep up his Spirits to the dignity of his Possession, it obstructs his Studies, impairs his Parts and Abilities for his Function, and often debaseth his Mind to such low and mean things, as make him in the result wholly unfit for it. And so the great Work committed to his charge for the promoting of God's Honour and Man's Salvation becomes frustrate of its End, and grows wholly ineffectual in his Hands. By this you may fully see of how great Importance it is for the good of the Church of God, and the Interest of that Holy Religion, which he hath given unto us, that the Ministers of the Gospel have carefully and intirely preserved to them that Maintenance, whereby they are to be supported in the due and faithful Discharge of those Duties, which they are called unto ; and of how mischievous a Consequence it is to the Honour of God, the Salvation of Men, and the whole Interest of Religion to curtail or deprive him of any part of it, especially at his first coming to his Charge. To provide Charity for those that want, and Relief for such as are in Distress, I acknowledge is a
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very pious and laudable Undertaking, but when you take from the Ministers Maintenance wherewith to do it, you obstruct an higher end to promote a lower, and make the Work of the Gospel of Jesus Christ to go backward by impiously alienating to another Purpose what hath been devoted to the carrying on of it; and in so doing you do not only deprive the Church of its Dues, and Religion of its support, but in the Consequence of it also rob God of his Honour, and the People of those means of Salvation, which have been ordained for them. And if this be not a wrong to the Church, and our holy Christian Religion; if this be not injury to God's Honour, and Man's Salvation; if this be not an impious Alienation of things Sacred, and gross Sacrilege, I know not what else is. Furthermore, Charity in its Original and first Notion is the Love of God, and that Love, which we shew unto our Neighbour in helping him in his Distress; and relieving him in his Wants, is no otherwise Charity, but as it proceeds from the Love of God, and is an act thereof expressed unto Man for God's sake. And how oddly then do you shew your Charity, when you rob God to give unto Man; and how absurdly do you call this Charity, when it is in truth one of the greatest violations of it? For when you take away from God and his Church that, which is to support his Honour and Worship, that which is to maintain his Holy Religion, and carry on the Interest of his Kingdom among Men, do you not injure him, do you not offer great Wrong unto him, and act contrary to the Love of him herein? And how then can you call this Charity, when nothing can be such, but what proceeds from the love of God is done for his sake? Should any one for our sake give out of his own to help our Servants, when in Distress, or relieve our Children, when in Want; we have reason to take it kindly at his Hands, and look on it as an instance

of his Love and Affection to us. But if he takes from us our own Goods for this purpose, and robs us of what is set apart for our own peculiar Occasions wherewith to do it, it all becomes Wrong and Injury unto us. And so in like manner if for God's sake you will give of your own to help and comfort any of God's Servants, when in Distress, or relieve any of his Children, when in Want, God will accept it at your Hands as an Act of Love unto him, when it is thus really such, and will impute it to you accordingly. But if you take from him the Goods of his own House the Church wherewith to do it, and for this Purpose rob him of that, which is in a peculiar manner devoted, and set apart for his own Service, for the Support of his Worship, and the maintaining of his Honour among Men, it all becomes Injury, Wrong, and Impiety against him, and instead of that love of God, wherein the true Nature of Charity doth consist, it becomes one of the highest Violations of it. And here I cannot but observe, that most of you, who are so Zealous in this matter, are such, whose Families are in no danger of needing this Charity after your Decease, and yet you must enjoy the Benefit of it as well as the most indigent; and also that you being grown aged in the Church are past all expectations of being Successors to others in any of the Preferments of it, but are sure of having Successors to your selves, which gives a strong reason for Suspicion, that it is not so much Charity, as a greedy aim to your own Interest, that is the true Spring which sets this Design on work, and that the whole Contrivance of it is only to make the most of your Livings for your selves, and secure the next Harvest of them after your Decease for the Benefit of those, to whom you shall think fit to dispose of them: So that while you cry Charity, Charity, and make all this noise about it, you are in truth only studying how to enrich
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your own Families with the Goods of the Church, and therefore in the same manner, as *Judas*, you will have that sold and given to the Poor, which is devoted to Christ, not that you care for the Poor, but that with an impious Craft like his, you may prog for your own Bag.

4^{ly}, and *Lastly*, What you propose is not only contrary to Charity, Justice, and the good of the Church, but will also be to the Prejudice and Damage even of those, for whose sake you pretend to desire it, that is, of all the Clergy in *England*. For,

1st, It is a dangerous Precedent, and may prove of very ill Consequence to add any new load of Charges upon the Clergy at their first coming to their Livings. There is too much of this upon them already, and if you once open a way of adding further to it, you cannot tell where it may at last end. For men are apt enough already to think they can never put too much upon those, who are newly preferred, and if they object against it, or in the least repine under the burden (as there is reason often enough for them so to do) the answer usually is, *what have you not a good Living, and can you not be content to pay a little out of it?* And by this means of adding load unto load upon the new preferred (g) it once came to that pass in the Church of *France*, that it cost the Clergy the first three Years Revenue of their Livings before they could be settled clear in them, and it was the fourth Year e'er they received any thing out of them for themselves, though they served the Cure all the while. And if you do by such a Precedent, as you would now make, encourage Men to do so here too, it will be the readiest way to bring you also to the same pass.

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2^{ly}, (g) Thomassin Part. 3. lib. 2. c. 58. § 13. And Cardinal Richlieu, in his Political Testament complains, that it is so still in France, as to the Bishops, that the Charges of the Regale, of their Bulls, and

other Burdens upon them usually eat up the three first Years Revenue of their Bishopricks, so that it is the fourth Year, before they can receive any thing for themselves to maintain them upon their Bishopricks, and enable them to reside in them, Part. 2. Cap. 2. Sect. 4. p. 73.

2^{ly}, If the Profits of the Living on an Avoidance, be to be divided between the Predecessor and Successor in proportion to the time, which each hath served the Cure from the *Michaelmas* preceding, as you propose, I must ask the Question, Who is to make the Partition? What each is to have depending upon the value of the Living? There will so many Controversies arise about it, as will cause almost as many Law-suits, as there shall be Avoidances, in which the Plaintiff and the Defendant contend for their Dividend, each will in the Charges of the Suit lose as much as they Sue for, and often much more, and the Lawyers run away with the whole. So that instead of obtaining by your Project any Benefit to the Family of the Predecessor, you will effect nothing else by it, but only to sling in a Bone of Contention between them and the Successor, to Vex, Turmoil, and Impoverish them both.

3^{ly}, If thus you send Ministers to Courts of Judicature about the Values of their Livings, the effect of this will be, that the real Values of Ecclesiastical Benefices will after a while be all publicly proved, and entred on Record, which will be a ready way to have the fifth Bond sued upon the Clergy, and all be made pay their First-fruits and Tenths according to the full extent of what their Livings are worth. This was attempted in the time of King *James* the II, and would have then been certainly put in Execution, but that the Charges, which the King must have been at to make a new Valuation, when stated by those, who were appointed to consider the matter, did arise so high in the Computation, as discouraged him from going on any further with it. But if your Proposal should take effect, and any Prince hereafter shall either out of his ill Affection to the Clergy, or out of a desire to encrease his Revenue at their Cost, resume the same Design, he will find a Valuation ready made to his Hands, and will have

have no more to do, than to examine the Records of those Courts, where the true values of Livings have been proved on such Controversies, thoroughly to know them. And what then can hinder, but that this Design may be put in Execution, and so your Project by making way for it prove the Ruin of all the Clergy in the Kingdom?

4^{ly}, Were what you propose passed into a Law, it would be so far from being of the least Advantage to any of the Clergy, that even those, whom it would bring the greatest Benefit to, would be more hurt, than helped by it. For by the same Rule, they are to receive from the Successor, they must pay to the Predecessor, and the former will be so far from making amends for the latter, that when both are ballanced together, the whole will appear to be nothing else in the Result, but Damage, Mischief, and Oppression even to those, for whose sake you pretend chiefly to solicit this matter. For you take from them, when they first come to their Livings, to give to them again, when they shall die out of them, which reduceth the matter to this Question, Whether it be better for the Minister to have forty Pounds for instance to his own use, when he first comes in to his Living, or else that Sum Twenty, Thirty, Forty, or perchance Fifty Years after for the use of his Executor, when he shall die out of it? As the Law now is, he is to receive it, when he first comes into his Living, but according to that Alteration, which you would have made in the Law, it is to be taken from him, when he first comes into his Living, and to be given him again as many Years after, as I have mentioned, when he shall die out of it. And which of these two will be most for the Advantage of him, and his Family, I think is plain enough to determin. When Ministers first come to their Livings, they are often put to great Difficulties to defray the Charges of their Admission, and settlement in them; and there-
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fore the Money will then certainly be most welcome to them, for want of which they are often forced to borrow upon hard Terms, and put to other very disadvantageous Shifts to get wherewith to supply those Occasions, which they then have for it. Besides, when a Minister first sets up in the World, he then hath most need of all the help, that can be given him, to enable him to settle among his People in such a manner, as may be suitable to his Function, and secure him those Respects, which are due thereto. And therefore, had he then his Forty Pound (the Sum I have above mentioned for Instance) what with the Convenience he will then have in it at a time when he will most need it, what with the Benefit of being delivered from the disadvantageous Ways which he must otherwise take to raise it elsewhere, and what with the Improvement, and Advantage, he may after make of it, that which is Forty Pound at his first coming to the Living may be more worth than Four Hundred to his Family at the time of his Decease. So that in truth under the pretence of befriending the Families of deceased Ministers you will oppress them, and while you would seem to relieve them, you ruin them. For you take from them Pounds to give them Pence, and to procure a little for them at the time, when the Minister dies, you take from them in the beginning what would be worth more to them in the Conclusion, than ten times as much. By this means you will reduce all the Clergy of *England* to that ill Custom, which is still kept up contrary to the Law in some Cathedral Churches, of giving the Predecessor the Year after his Death, and how disadvantageous that is to every one in those Churches, is clear enough not to encourage any else to follow the Example. For supposing those Preferments may be worth one, two, or three Hundred Pounds *per Annum*, would it not be much more to the Advantage

vantage of every one, that comes into those places, to receive the first Years Revenue immediately, when it is due, for his own Use and Benefit, when he may perchance most need it to pay his First-fruits, and defray other Charges of his first Admission, than to be put off to have it paid his Executors, thirty, forty, or perchance fifty Years afterwards, when he is deceased? Would not the bare Interest of this for all this while amount to a great deal? And might not a good Husbandry improvement of it in his own Hands make it much more? And doth not all this damage at last redound to his Family? And therefore is not this Custom, which seems to be introduced in their favour, in Truth and Reality a very great Injury and Disadvantage unto them? And will it not be the same to the Families of all other Ministers, if the same Usage either in part or in whole should be brought into practice among them? To you, who have never allowed any such thing to your Predecessors, I confess it would be an Advantage to have this allowance made to you by your Successors, and there is reason to suspect, as I have already told you, that your own Interest in this particular is in truth and reality all that you drive at in this Proposal. But when the Law comes to bear upon all, and every one must pay, as well as receive, and pay so long before he will receive it again, it will be so far from bringing any Benefit or Relief to any one, that it will be all Damage, Injury, and Oppression even to those, whom you pretend most to help by it, and in the result, where a Minister lives long, may prove a loss to him and his Family ~~often~~ ^{often} of ten times ~~of~~ greater Value, than all the Benefit they can receive from it.

And thus far having fully laid open the ill Consequences of your design in every particular, and clearly shown, how it is contrary to Charity, Justice, the Good of the Church,

and also the Interest of those, for whose sake you pretend to promote it, I should now conclude, but that too much of this being often practised without a Law, which you would procure a Law for, to the great oppression of many poor Clergymen at their first coming to their Livings, and the great hindrance of that Work, on which they are sent, I cannot pass it over without making those Reflections upon it, which the Iniquity of so foul and unjust a Practice doth deserve.

For when a Minister dies, who leaves a Wife or Children behind him, there is usually a great cry of Charity for them, and in truth they are often left fit Objects for it; and those, who are so sensible of it, as thus to call so loud for Relief for them, would do a very worthy and commendable act, if they would out of their own Purses contribute towards it, or find some other way for the Comfort and Support of the Distressed, that would be justifiable and honest. But instead of doing this, the Burden is usually shifted off from the wealthy Kindred, Friends, and Neighbours of the deceased, who are most able, upon one who needs Help and Relief very often as much as the other, and from those, who by reason of their Relation, Friendship, or Acquaintance are most obliged to it, upon one, who for the most part is an absolute Stranger, and the next Successor made bear the whole. And to this end as soon as the Minister is dead, application is usually made to the Patron to suspend his presenting a Successor to the Living for the six Months, which are allowed him by Law for the providing of a new Clerk, and if those will not take in the main Profits of the Living, the Bishop is next solicited, and often prevailed with to add his six Months too, that so the Widow may have the whole Advantage of the Benefice after her Husband's decease, as long as all the Tricks they can make use of can procure it for her, as if
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his Living were to be her Joynture. And because the Law gives all that accrues from the Avoidance to the next Successor, the Patron is also engaged not to give his Presentation to his Clerk, but upon Promise, that he will permit the Widow quietly to enjoy all that, which is by these indirect and illegal Means extorted out of the Living for her, and renounce his own right in this particular. And lastly, To compleat the matter the Neighbouring Ministers undertake in their turns to supply the vacant Pulpit for her. And although their own Cures be hereby neglected, and the other after this manner very lamely and insufficiently served, and so the Law of the Church be in a double manner violated and broken by it, yet all must be overlooked for the sake of the Widow, and the Church-Governours, as well as others, be made neglect their Duty, that her turn may be served in securing for her as much of her Husband's Living after his Decease as they are able, and all Parties must be thought to be doing a very laudable, and good Act, that are concerned herein, whereas in truth it is a most foul Complication of Sacrilege, Simony, and Oppression, and wherever practised is to the prejudice of the Church, the dishonour of God, and the great Injury and Wrong of the Minister, that next succeeds.

For, 1st, Here is a Promise made by the Clerk before he hath his Presentation, that he will allow the Widow of the deceased Minister all that, which is desired; and what way hath the Patron to oblige him to this, but by telling him, that otherwise he shall not have the Living, and what is this, but direct and most manifest Simony? For to promise any thing that is Money, or Money's Worth, in order to obtain the Living hath always been adjudged to be such. And when the Clerk is instituted he swears, *That he hath made.*

made no Contract, nor Promise directly or indirectly by himself, or any other to his Knowledge, or with his consent to any Person, or Persons whatsoever for or concerning the procuring, or obtaining of the Living, he is to be instituted to. And is not this Practice of the Patron's putting such a Condition upon his Clerk of making the allowance abovementioned before he gives him his Presentation, and the Clerk's promising to perform it, directly contrary to the Tenor of this Oath? And how then can the Patron exact any such Promise, or the Clerk make it without rendring themselves both guilty of this horrid Crime? For the Patron to exact such a Promise before he will give the Living, is certainly Simony; and for the Clerk to make this Promise, and afterwards take the Oath against it, is not only Simony, but also a most wilful, and Presumptuous Perjury. And how can any Patron expect, when he sends his Clerk into the Cure with two such great and horrid Crimes, that the Blessing of God should ever attend him in any thing, that he doth therein? Or how indeed can either of them expect any thing else, but that, since the one to obtain the Living yields to so wicked a Condition, and the other forceth it upon him, the Curse of God should pursue them both, all their Lives after for so great a Wickedness?

2. Here is also in this Practice an Alienation of what hath been devoted to God and his Church to another end and purpose, whereby the Honour of God, and the Salvation of the Souls of Men, for the promoting of which the Endowments of Churches were appointed, do suffer great Obstruction, and damage through that neglect of the Cure, which must necessarily be consequent hereto. So that here is not only a defeating of the Church of its Endowments, but also of God, and his Holy Religion of all the Ends, for which they were appointed. For Churches are endowed, that Ministers may be maintained in them, and the

the end and reason of their Ministry is to support God's Honour and Worship, and promote Piety, and Religion, and set forward the Salvation of the Souls of Men in the Parishes where they are called. But all this must fail, and be set aside, where this Practice is made use of. For that the Widow of the Deceased Minister may have the Profits of the Church for the next Year after his death, no Minister is appointed to serve that Cure for a great part of that Year, if not the whole, and where there is no Minister, there can be no care taken of the Ministerial Duties, and for want of them Religion, and all that belongs thereto must necessarily sink, and run to Ruin. That the Neighbouring Ministers supply the Pulpit in their turns doth not salve the Matter. For this is but one part of the Ministerial Duty, and that which falls very much short of the whole. For besides Preaching, it belongs to the Minister to be alway ready to Administer to his People all other spiritual Assistances and Comforts, as their Souls Health shall require, and to have constantly a vigilant Eye over them, and to Exhort, Rebuke, Admonish, and imploy all other Means for their growth in Grace, and in all good Works, as on all Occasions shall be needful for them. And all this must be neglected, where there is no Minister appointed, and settled upon the Place. Besides, while the Pulpit of the Vacant Church is thus supplied by the Neighbouring Ministers in their Turns, they do every one neglect their own Pulpits, so that in Truth, the whole Ministerial Duty is as much neglected, and the Honour of God, and the Interest of Religion as much prejudiced by this way of serving the Cure, as if it were absolutely, and wholly deserted, and not served at all. For although some part of it be performed in the vacant Parish by preaching the Word, yet in this Method as much of it is always neglected in another. For when the Neighbour Minister

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preacheth in the vacant Church, at that time most certainly there can be no preaching at his own, and therefore, when that little of the Ministerial Duty is performed there, which is all that is intended by this Scheme, it is always purchased with the Neglect and Omission of as much of it elsewhere. So here is a robbing of God, and his Church of that which is devoted to him, and not this only, but a concomitancy also of all the ill Effects of it. For by taking away the Maintenance, you take away the Ministry, and by taking away the Ministry, you take away the Means whereby Religion is supported, and so rob God of his Honour and Worship, Christ of his Church, and the People of their everlasting Salvation. And what is this but Sacrilege with the worst of those Consequences accompanying it, which use to attend that horrid Impiety? For as Theft is the robbing of Man, so Sacrilege is the robbing of God, and how can God be more robbed, than in the manner as I have now said?

3. How much of Injury and Oppression is included in this Practice in respect of the Minister that next succeeds in the Living, that hath been already said, which doth abundantly demonstrate it, and therefore there is no need, that I should here repeat it again.

And thus far having laid open the iniquity of this Practice, I hope it may conduce to the undeceiving of many, who have too easily been drawn in by the fair show of Charity, which it carries with it, to make themselves Actors herein, and thereby involved themselves in Simony, Sacrilege, and the great Oppression of the Minister, that next succeeds, without being aware of the Wickedness of what they are a doing. Charity is a most Pious and Worthy Act, when performed as it ought, that is, when out of the Love of God we show our Love unto our Brethren for his sake, so as to relieve them, when in distress, and bring help to them,

them, when they stand in need of it, and the Families of Ministers deceased are often left fit Objects for it. But to do such Impious and Unjust things to promote it, whereby God is dishonoured, his Church Robb'd, and our Neighbour oppressed, is to Poison one of the greatest of Christian Virtues with the worst of Corruptions, and turn all into Sin and Iniquity.

But here you will perchance say, though the Successor hath the Legal Right to all that accrues from the day of the Avoidance of the Living, yet is there no Equity for the Predecessor? Suppose he lives to the day just before Harvest begins, must he lose all of it, and although he hath served the Cure all the Year before, must he not at all be considered for it, but the Successor go away with the whole Revenue of the Benefice, who hath done nothing of the Service, to which it belongs? To this I answer, what is Equity in this Case, and what is not Equity, I will lay down in these following Positions.

I. There is neither Justice, nor Equity, that the Patron should intermeddle herewith, or take upon him to determine, what part of the Fruits shall belong to the Predecessor, and what to the Successor. For he hath no right at all to interpose herein. He is only a Trustee appointed by the Church to find a fit Clerk on a Vacancy to present to the Bishop for the filling of the Cure, and when this Trust is Executed, his whole Right is spent, and he hath nothing more to do with the Benefice, or any thing belonging to it, till another Avoidance happens. As to the Endowments of the Living, or the Fruits and Profits accruing from it, he is wholly excluded all manner of Right, Trust, or Concern in them. For neither the Freehold of the Benefice, nor the Custody of the Fruits do devolve unto him at any time, but the former on the death of the Minister is always in Abeyance during the Vacancy,
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and the Fruits are in the Custody of the Bishop for the use of him, who shall be next instituted into the Living. And therefore for the Patron to take upon him to dispose of any of the Fruits of the Living, while void, is what he hath no direct Right to do, and if he doth it indirectly by unjust Means, he is guilty of Fraud, Collusion, and breach of trust herein, and makes himself, and his Clerk, when he forceth him to consent hereto, both Simoniack and Sacrilegious in so doing, as I have above shown.

2. It is not Equity, that the Predecessor should claim to be considered for serving the Cure from the *Michaelmas* preceding, because the Year being from *Lady-day* to *Lady-day*, the time in which he served the Cure before *Lady-day*, belongs to the former Year, and he having already received the Fruits of that, he hath had his Reward, and therefore cannot either in Justice, or Equity Claim it again.

3. In case the Minister dies immediately after Harvest, there is as much Reason and Equity, that the Successor should be allowed out of the Harvest preceding by the Predecessor for serving the Cure to the *Lady-day* following, as that the Predecessor in case he dies immediately before Harvest should be allowed out of the Harvest following by the Successor for the time he served the Cure from the *Lady-day* preceding. For the Fruits of the Benefice, at what time soever received, are for the serving of the Cure for the whole Year; and therefore, if there be Equity for the Predecessor in his Case, there must be also the like Equity for the Successor in his, or else you must allow it to neither.

4. If the Predecessor hath the disadvantage of it, as the Law now stands, in case he dies before Harvest, he hath also the Advantage of it in Case he dies immediately after Harvest, and consequently the Successor, as he hath the Advantage in the former Case, so hath he the Disadvantage

vantage in the later. And therefore if the Successor be left to take his Disadvantagious lot, as well as his Advantageous, according as it shall happen, without Remedy or Relief, there is all Reason and Equity, that the Predecessor should be left so too, and not that all the Advantage be given to the one, and nothing but the Disadvantage left to the other. And indeed, when both Predecessor and Successor have an equal hazard to each, and both stand as fair for the one Lot as the other, its Reason each should be contented with that which happens, be it which it will.

5. If it be thought hard, that the Predecessor should serve that part of the Year, which he lived in the Cure from the commencing of it, for nothing; it is as hard upon the Successor, who, when all Charges are deducted, hath most an end nothing remaining for serving the other part. And therefore, since it hath so hapned, it is altogether as equitable, that the one should serve the cure for nothing, as the other; at least if the Predecessor must have his losses repaired, there can be no reason, that Repairs should be made for them upon the Successor out of the Profits of the Year, when he scarce ever hath any thing of them left over and above his Charges to pay himself. The truest Equity in both these Cases seems to be, that, since both are losers, both should bear their own Loss, and neither of them charge any thing of it upon the other.

6. It must be inquired, at what time the Predecessor's Right in the Living did begin, whether his Predecessor might not have died about the same time, and in Case he did, what was allowed him out of the Harvest after received. For if he in the same Case allowed nothing to his Predecessor, there is no Equity, nor Reason, that his Successor should allow any thing to him.

7. In case any thing be to be allowed the Predecessor out of the Living for the time he hath served the Cure that Year in which he died; there is all Reason, and Equity, that all that which is charged upon the Living that Year, be first deducted, that is, First-fruit, Taxes to the Queen, and Poor, Charges for Institution, and Induction, and all other necessary Expences, and Payments, which he must be at on his first settling in the Benefice. For all these must be reckoned as the Burdens of the Church that Year, and must be defrayed out of the Endowments and Revenues of it. And when all these are discharged, and deducted, if the Overplus (for that only is the clear Profit that Year) be divided between the Predecessor and Successor in proportion to the time, which each hath served the Cure from *Lady-day*, it is all which I think in the utmost Rigor of Equity can be pretended to. But when all these Deductions are made, I believe there will be very few Livings in *England*, where there will be any thing found over and above for a Dividend.

So that in the result, after all the Struggle and Noise, that is made in this matter, when it comes thoroughly to be examined and searched into, the Law, as it is now established, will be found to be the best stated and standing Rule, which can be made concerning it, and that there will be no danger of violating either Justice or Equity, but by Varying from it.

But here you will say, Must there then be no regard had to the Poor Widows, and Children of deceased Ministers? Must no Compassion be shown towards them, or any Provision at all made for them? To this, I answer, None shall be more ready, than I will always be for the providing of all suitable Relief for them in a justifiable Way. I reckon this is, what we in this Kingdom are Defective and Faulty in. Most other Protestant Churches in other

other parts of Christendom have Provisions for the Wives and Children, which their Ministers may leave behind them at their Decease, stated and settled by Law. And no Christian State is more obliged to this, than we in this Kingdom, because by that great number of Alienations of Tithes, which were made from the Church into the Hands of the Laity at the Reformation, a multitude of our Livings are so impoverished, as not to be sufficient to provide a Minister with a tolerable Competency, while he lives, much less to enable him to leave wherewith to support a Family after his decease. But is there no other way of finding Relief for them, but by robbing God, his Church, and the next Successor? Are there no other Means of providing Charity for their Support, but at the price of Simony, Sacrilege, and Oppression? It is against this Evil and Impious Way only that I argue: Find out any other, that is justifiable, and honest, and I shall be most ready heartily and zealously to concur with you in it. For I truly think it a great Defect among us, and a Reproach to the whole Nation, that so little is done in it already, since so many Reigns are now past since the Reformation, in all which it hath been continually complained of, and never yet redressed. And I think we cannot be excused, till some legal Method be settled by the Government to make Provision herein. And because my destroying your Way may not be thought to be from any Design of obstructing so good a Work, I will supply you with another, which after my most serious Thoughts on this Matter, seems to me the most proper for the Purpose, as being not only free from all the Objections, which I have made against that, which you have proposed, but that which in all likelihood will prove the most effectual to answer the End intended, and all this without grieving or oppressing any Body. And an Act of Parliament can establish this way, as well as that,

which

which you propose. And therefore, if you will alter your Petition, and put this way into it instead of the other, you shall have both my Hand and my Heart to concur with you in it. I will propose it to you in these following Articles,

1. That the whole Body of the Clergy do equally take upon them this Charge of providing for their own Poor, that is, the Poor Widows and Children of Clergymen deceased, in the same manner, as every Parish provideth for those that fall into Poverty in it.

2. That in order hereto, the Clergy of every County be incorporated, and have stated Meetings, and proper Officers appointed to manage this Matter.

3. That the Officers appointed do Annually lay an equal Rate upon all the Ecclesiastical Benefices in the County, for the maintaining of those Poor belonging to the Clergy, in the same manner as the Overseers of the Poor do in every Parish, make a Rate for the maintaining of the Poor belonging to the said Parish.

4. That a License of Mortmain be granted to every such Corporation to purchase and hold Lands to a value in proportion to the Number of Parishes, which are in the said County.

5. That all Parishes be discharged from making Provision for any such Poor, as the Clergy are to be charged with according to this Proposal, and that in consideration hereof all Ministers of Parishes be discharged from all Pours Rates in their said Parishes for their Ecclesiastical Benefices, and be charged for them only to the maintaining of their own Poor, and none other.

All the Difficulty in this Proposal will be to get the Clergy excused from being rated for their Benefices to the Parochial Poor. But since hereby the Clergy discharge the
Parishes

Parishes from so many Poor, as belong to them, it is but equitable, and reasonable, that the Parishes should discharge them on the other Hand of so much of the Parish-Rates, as is laid upon their Benefices, in order to maintain them. And the Widows and Children of Clergymen, when reduced to Poverty, and Want, by their Decease, have a very just Claim to the publick Charity of the Nation, in that they, who left them in this Condition, died in the publick Service of it; and that especially since the Reason, why they were not better provided for by the deceased for the most part is, because they themselves were not sufficiently provided for while living in the Station, in which they served. Had not the State taken from the Church so much of its former Endowments, by appropriating them into Lay-Hands at the time of the Reformation, Ministers would have been in a Condition to have provided for their Families themselves, and therefore the State being the Cause of that Poverty, in which Clergymen so often leave their Families behind them, when they die, I reckon they are under a more than ordinary Obligation to take care of a suitable provision for them. To turn them over to the Allowance of the Parochial Poor, will be too hard for Persons of their Condition. The Character of those they were so nearly related to, and the rank which the Dignity of their Function did put them in, while they were living, do require, that they should be maintained in a better manner than this, after their Decease. It was a Rule of Charity among the Jews, (i) that if a Person of the better Rank should fall into Poverty, and Want, he was to be relieved in a manner suitable to his former Condition, and there is Reason for it, because when Men have been habituated to a plentiful and opulent way of living all their Lives past, they will need more things even for

(i) Maimonides in Tract. Metanoth Anisim cap. 10.

the necessary support of Life, than other People, who have been more hardily bred, and therefore if allowed no more, than what is given the meaner sort barely to keep them from starving, they cannot be maintained by it. And therefore since the Character of the Minister, while he lived, the Dignity of his Function, and his Station in the publick Service of the Church, in which he Ministred, did put him and his Family above the ordinary sort of People, it is reasonable, that his Wife and Children, which he leaves behind him at his decease, if afterwards reduced to want, should be considered, and provided for in a manner suitable to their former Condition, and not be brought down so low, as to be put on the same Level with the meanest of Beggars, and the vilest Scum of the People in a Parochial Allowance. As this will be a disgrace to the Function, and a dishonour to the Order, of which the Person was, to whom they were so nearly related, so also will it not only be insufficient to relieve their Need, but moreover, carry with it such a load of Indignity, and Contempt upon the Persons themselves, as none of them, considering their former Condition, will ever be able to bear or submit to. And therefore, as long as there is no Provision for them, but in such a Way as this, which they cannot accept of, and which also would be insufficient for them if they could, it is the same thing, as if they were not provided for at all, and it still lies upon the Nation to take that care of them, which Charity and Justice do require. And in what better Method can it be done, than in this, which I now offer unto you? For if they be put into the Hands of the Clergy themselves to take care of them; You may be sure, they will be provided for in such a suitable and sufficient manner, as every one of them will be glad to accept of, and so all will be fully relieved, and comfortably supported
by.

by it. And what less can the Nation do towards it, than appropriate, what the Ministers usually pay for their Benefices to the Rates for the Parochial Poor, for this purpose? We do not ask a new Rate, or a new Tax for this Charity, but only a part of that, which is already established, and this for the Maintenance of a part of the Nation's Poor, which they are bound to provide for, as well as the other. Neither do we ask any ease for the Clergy, in this matter, because if they take upon them the whole Charge of providing for the Clergy's Poor, that is, for the Widows and Children of Clergymen deceased, that are left in Want, and do it in such a manner as is suitable to their Condition, as well as their Needs, as it ought to be done, the Expences which the Clergy must be at herein, will rather exceed, than any way fall short of that, which they are now charged with in the Poors-Rates of their Parishes. And therefore what can be more reasonable and just than that, when they take upon them in the manner as I have proposed, the Burden of wholly providing for the former sort of Poor, they be wholly exempted from being charged any thing to the latter, and that at the same time they discharge the Laity of the Poor, which they take into their Care, the Laity discharge them of the other? For otherwise, the Clergy will be charged double to what others are charged only single, which is by no means intended by this Proposal.

And thus far I have plainly laid before you my Sentiments concerning the Matter you proposed, and I hope what I have said, hath by this time made you fully see your Error herein. I confess I have enlarged my Discourse hereon to a much greater length, than

I first intended, but because I desire to leave all things
 [o] clear behind me, I could not ~~admit~~ any thing of that,
 which I thought would conduce hereto. If this hath
 caused a Prolixity, which is tedious and offensive to
 you, I beg your Pardon, and am,

S I R,

Your Humble Servant,

March 25.
 1703.

A. B.

F I N I S.

